IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4102 OF 2006
WITH
CRIMINAL APPLICATION NO.1765 OF 2006

Ashishkumar A. Patil ...Applicant
(In both the Applications)

Versus

The State of Maharashtra & Ors. ...Respondents
(In both the Applications)

Shri V.V.Purwant for the Applicant in both the Applications.
Shri U.V.Nikam, A.P.P for the State in both the Applications.
Shri Tejpal S. Ingale for the Respondent No.2 in Application No.4102 of 2006.
Shri K.S.Patil the Respondent Nos.3 and 4 in Application No.4102 of 2006 and in for Respondent Nos.2 to 4 in Application No.1765 of 2006

CORAM : A. S. OKA, J.
DATE : DECEMBER 19, 2006.

P.C.:

1. Heard Shri Purwant for the Applicant, Shri Ingale for the second Respondent and Shri K.S. Patil for the third and fourth Respondents.

2. In the order dated 23rd February, 2006 passed by this court (Coram: V.M.Kanade, J) in Criminal Application No.619 of 2006, this court has observed thus:

"4. It is expected that the learned counsel, who appear on behalf of the Accused, would find time to appear in the court of the Additional Sessions Judge inspite of their busy schedule, which is clearly reflected from the application filed by the Advocate appearing on behalf of the Accused No.4. It is expected that the learned counsel, who accepts brief on behalf of the Accused, owe a duty not only to the client, but also to the Court and if they are unable to appear before the lower court on account of their busy schedule, it is expected that the Accused make necessary alternate arrangement or the Counsel returns the brief so that there is no obstruction in the administration of justice. This is to be noted particularly when criticism is made by the Senior Counsel and others regarding the pendency of the cases in the court".

Further order passed in Criminal Application No.1765 of 2006 on 12th June, 2006 notes that three witnesses have been examined. On 12th June, 2006, this court directed

that the trial shall be concluded within a period of three months. Unfortunately, as of today, status of the case in the Trial Court is the same.

3. Perusal of the annexures to the present Criminal Application No.4102 of 2006 shows that the accused have repeatedly applied for adjournment on the ground that the Advocate engaged by them is not available. In Criminal Application No.1765 of 2006, a report is received by this Court which is forwarded by the Trial Court on 11th October, 2006. The report notes that accused Nos.2 and 3 are in custody and Senior Advocates are representing the accused persons. It is stated that the trial is being postponed at the behest of accused Nos.1 to 3 on account of number of applications made for adjournment from time to time on the ground that the Advocates would not find time to appear in the court due to their busy schedule. The learned Judge has stated that all possible efforts were made by him to proceed with the case on the dates fixed for hearing. However, due to repeated adjournments sought, he was helpless.

4. All this has happened after this court passed

the aforesaid order dated 23rd February, 2006. As stated above, this court has expressed in the said order that if senior advocates are unable to appear before the Trial Court on account of their busy schedule, it is expected that the accused should make necessary alternate arrangements or the concerned advocates should return the brief so that there is no obstruction in the administration of justice. This order was passed on 23rd February, 2006. Notwithstanding this order, Applications for grant of adjournment were time and again made before the Trial Court only on the ground that senior advocate appointed by the accused persons was not available.

5. Shri K.S.Patil appearing for the third and fourth Respondents states that the concerned senior advocate has assured him to appear in the matter regularly and to ensure that the trial is concluded as expeditiously as possible. Shri Ingale has also assured that his client will ensure that the Advocate appointed by him remains present.

6. Hence, I pass the following order:

(i) Criminal Application No.4102 of 2006 is disposed of by directing that trial shall be concluded on or before 09th March, 2007.

(ii) The report of the learned Trial Judge is also accordingly disposed of.

(iii) In case Applications for adjournment are made at the instance of the accused who are on bail, the State will be at liberty to apply for cancellation of bail.

(iv) Writ of this order be issued immediately.

(v) The Application is accordingly disposed of.

(vi) Place this Application for directions on 16th March, 2007.

JUDGE